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FEDERAL SUBSISTENCE BOARD
RURAL DETERMINATION PROCESS PUBLIC COMMENT

BEFORE HEARING OFFICER
PATRICIA PETRIVELLI

PUBLIC TESTIMONY

Fairbanks, Alaska
November 7, 2013
7:00 o'clock p.m.

BEFORE HEARING OFFICER
Pat Petrivelli

Presenter: David Jenkins, Facilitator
Office of Subsistence Management
Charlie Brower, Federal Subsistence Board Member

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P R O C E E D I N G S

(Fairbanks, Alaska - 11/7/2013)

(On record)

MS. PETRIVELLI: Hello. I'd like to welcome everybody and we're going to start this public hearing on the rural determination.

And, of course, first off I'd like to let Charlie Brower give a welcome and I'm not sure, it says here I'm supposed to welcome community -- there's a welcome from the community lea -- oh, okay, I'll let you do the welcome and then I'll continue with -- oh, actually that was -- yeah, this bullet, introducing the Board member first.

Charlie.

MR. BROWER: Good evening. My name is Charles Brower. I'm one of the Federal Subsistence Board members, a public member.

I'm glad that everybody's here to review the rural determination process and I believe Mr. Jenkins will give an overview on this process while me and Patty here are taking messages or notes -- we're here to listen. Patty.

MS. PETRIVELLI: Okay. And then the other Staff are Melinda Hernandez is the coordinator and Salena Hile, the court reporter. And then, of course, Charlie mentioned Dave Jenkins, and there's other OSM Staff here but we're just listening.

We want to thank everyone for attending tonight's hearing. This is an opportunity for you to provide input to the Federal Subsistence Board's rural determination process. And there are Regional Advisory Council members present also that are listening to what people have to say. The Board is accepting comments until December 2nd, 2013. Tonight will be an opportunity for you to provide a written or oral comments.

My name is Pat Petrivelli. I'm the subsistence anthropologist with the Bureau of Indian Affairs and I play a role with the InterAgency Staff Committee. I'm here to help the Office of Subsistence Management in this process and I'm serving as the hearing

1 officer, so my job is to make sure everyone here who
2 would like to make oral or written comments on the rural
3 determination process is able to do so. This meeting has
4 been scheduled to last until 9:00 o'clock this evening in
5 order to receive your comments. And we have here with us
6 -- well, of course, I already introduced Tina, the court
7 reporter who will record any comments that you make and
8 your comments will be transcribed and shared with the
9 whole Board.

10

11 During the public comment portion of the
12 meeting we will not be answering any questions. This
13 will allow us time to listen to and hear your comments.
14 And also we will be having some participation through the
15 teleconference and I'll check periodically to allow those
16 people to participate and give them a chance to speak,
17 and I just heard one buzz on the line.

18

19 MR. LORD: Is that me, Victor, Nenana.

20

21 MS. PETRIVELLI: Okay. So when the time
22 comes right after we have the presentation we'll be
23 taking -- I'll be checking in with the teleconference to
24 get participation through the telephone.

25

26 There are other hearing locations and
27 other opportunities for public, tribal or corporation
28 comments besides the different locations. I know one is
29 -- there'll be a teleconference at the Seward Peninsula
30 meeting and in Bethel, the Yukon Kuskokwim Regional
31 Advisory Council meetings, so there are other
32 opportunities and, of course, anyone can submit written
33 comments at any time. So, if, after the presentation,
34 you learn more information and don't feel like making an
35 oral comment tonight you can submit a written one.

36

37 And I heard another person, I'll check in
38 on the teleconference, so we're just doing the
39 introduction now and we'll move through -- as I review
40 the hearing procedures, you'll have a chance to comment
41 later.

42

43 Because of the importance of your
44 comments, it's necessary we follow certain procedures
45 during the meeting. As you entered the room, you were
46 asked to sign in and if you wish to testify, there are
47 green testifier cards if you want to comment. I think
48 you were asked by reading the piece of paper that said,
49 please sign in. It is important that every person
50 present sign in so that we have a complete record of all

1 persons who attended or participated in this meeting, and
2 then the teleconference participants, I think when they
3 log onto the teleconference they are recorded.

4
5 If you plan to make comments tonight,
6 please fill out a speaker card, do we have speaker cards?

7
8 MR. BURKE: Yes, they're green.

9
10 MS. PETRIVELLI: Fill out a green speaker
11 card and they're in the back on the back table there.

12
13 Also if you're attending this meeting or
14 submitting comments on behalf of a group or organization,
15 please indicate the name of the group or entity that you
16 represent.

17
18 Let me emphasize that the principal
19 purpose of the public hearing part of this meeting is to
20 receive information and comments for the record. And
21 then depending upon how full the room gets and how many
22 participants join us on the teleconference, at the end of
23 the presentation we'll see if we have to have a time
24 limit, but once David's through with the presentation
25 we'll decide.

26
27 And then if we do run out of time at 9:00
28 o'clock, we'll leave it up to Charlie, since he's the
29 Board member to decide whether we go longer or for sure
30 if we end right at 9:00 then you'll be able to submit
31 your comments in writing or participate in other
32 teleconferences. And there are handouts at the back of
33 the table with addresses and contact information or you
34 can go on the website, but the deadline is December 2nd.

35
36 So I don't know if you want to make any
37 general remarks, Mr. Brower.

38
39 MR. BROWER: No, I'm good.

40
41 MS. PETRIVELLI: Okay. So now we're
42 going to have the PowerPoint presentation from David
43 Jenkins. And I think you can follow the PowerPoint on
44 the website if you have access to a computer and the
45 website is located at the OSM website and I think it's on
46 the introductory page for rural determination materials
47 -- I can't remember -- on the first page, the link to the
48 PowerPoint.

49
50

1 DR. JENKINS: So if those on line want to
2 look at the PowerPoint you can Google Office of
3 Subsistence Management and that will take you right to
4 our page and on the first page go to rural review and
5 then PowerPoint 2013 and that'll give you a copy of the
6 PowerPoint.

7
8 Well, good evening, my name is David
9 Jenkins. I am an anthropologist and I work as the
10 subsistence policy coordinator at OSM. In fact, I think
11 everybody here knows that.

12
13 What we're going to do is I'm going to
14 spend about 10 minutes, maybe 12 minutes and go through
15 the kinds of questions that the Federal Subsistence Board
16 is asking the public to respond to in order to give the
17 Federal Board some advice on how to think about and
18 improve the process of rural determination.

19
20 So we're going to talk about why we're
21 here for this public hearing. I'm going to talk about
22 the framework that provides for thinking about rural, how
23 the current process works, the kinds of questions the
24 Board would like you to address, the various resources
25 that you have available to you and finally how comments
26 can be provided to the Board.

27
28 So in December of 2010 the Secretaries of
29 the Interior and Agriculture directed the Federal
30 Subsistence Board to look at the rural review process and
31 the Secretaries directed the Board to ask for RAC input,
32 for general public input and with tribal organizations
33 and with ANCSA corporations as well. The purpose is to
34 develop recommendations to improve the process of
35 determining which areas of Alaska are rural and which are
36 not.

37
38 We have a failed technology here, I
39 think.

40
41 (Pause - PowerPoint issues)

42
43 MR. NED: Can we ask questions while
44 we're waiting.

45
46 DR. JENKINS: If you have a question it
47 goes to Mr. Brower.

48
49 (Laughter)
50

1 (Pause)

2

3 DR. JENKINS: Oh, we have a techno whiz.

4

5 All right, so the framework, as you all
6 know, is ANILCA, Title VIII, in particular, and Title
7 VIII of ANILCA is the statute that provided a subsistence
8 priority for rural residents. And you can see on this
9 map in front of you, a map of Alaska, and the green areas
10 are all of the Federal lands. And so the priority, as
11 you know, are for rural subsistence users on Federal
12 public lands and this is the extent of the Federal public
13 lands in Alaska here in green.

14

15 But we also have a framework that's part
16 of the legal framework, and, in particular, a Ninth
17 Circuit Court of Appeals Decision in 1988, the Kenaitze
18 versus the State of Alaska and that ruling was on the
19 definition of rural. And it was about the State
20 definition of rural in 1988 and the Ninth Circuit Court
21 ruled that the State definition was inapplicable and that
22 rural, as Congress defined it, refers mostly to sparsely
23 populated areas, that was the primary indicator of rural
24 and that hunting and fishing resource use or subsistence
25 was not the primary indication of rural status, it was
26 really sparsely populated areas. So we've got two
27 frameworks we have to work with, we've got the statute,
28 ANILCA, and we've got the legal framework that was
29 provided by the Ninth Circuit Court of Appeals Decision
30 in 1988.

31

32 At this point you can see where, in
33 black, are the non-rural areas, where we are here,
34 Fairbanks, there's Anchorage, Ketchikan, Juneau and so
35 on. And as you can see from this map most of the state
36 of Alaska is rural under this definition, sparsely
37 populated.

38

39 And here are some of the population
40 figures from the 2000 census. And let me point out --
41 well, I'll point out a couple of things. You can see in
42 2000 -- you probably can't see, Anchorage was just under
43 300,000, Kodiak area was about 12,000, Sitka just under
44 nine, Kotzebue you can see down there is about 3,000.
45 And as it stands now the way that the process works, and
46 I'll come back to these population figures in a moment,
47 is that the Board groups communities together, and once
48 it does that it ascertains a population threshold, and so
49 we'll go back and look at those population thresholds in
50 a moment. It considers various kinds of rural

1 characteristics, it has a 10 year timeline in which it
2 reviews rural status every 10 years based on the US
3 census and then it uses a certain set of information
4 sources that I'll get to in a moment.

5
6 So what is the Federal Subsistence
7 Board's process at this point. It groups communities
8 together based on economic and social and communal
9 factors, and the three factors that the Board looks at
10 are do 30 percent or more of working people commute from
11 one community to another, do they share a common high
12 school attendance area and are communities in proximity
13 and road accessible. And if all of these -- if these
14 three criteria are met then the Board groups communities
15 together to come up with a larger population figure.

16
17 So the question wants the public to
18 respond to is; are these grouping or aggregation criteria
19 useful for thinking about rural status, and, if not, are
20 there other ways to think about how communities are
21 integrated together in order to come up with some
22 population estimates for determining rural status.

23
24 So that's one question the Board is
25 interested in public response on.

26
27 The current process now then is after
28 aggregation, the Board looks at population figures.
29 Below 2,500 a community or a grouping of communities is
30 considered to be rural. Between 2,500 and 7,000 a
31 community or grouping of communities doesn't have a
32 presumption of rural or not. And above 7,000 the
33 presumption is that the community is non-rural.

34
35 And let me tell you where some of these
36 figures have come from.

37
38 The 2,500 figure was adopted from the US
39 census that has been using that figure of 2,500 since
40 1910 to indicate rural status. So this is a low
41 threshold that's been around for over 100 years and the
42 Federal Board adopted this standard simply from the US
43 census.

44
45 The higher figure, 7,000 comes from a
46 Senate report commenting on ANILCA, and that Senate
47 report said, well, there are a number of communities that
48 we consider to be non-rural, Juneau, Ketchikan,
49 Anchorage, Fairbanks, and the assumption is, because
50 Ketchikan in 1980 had a population of about 7,000 that

1 that was the figure that Congress had in mind, or we can
2 presume that that was the figure Congress had in mind as
3 the upper threshold for a rural community. So above that
4 presumably it would be non-rural.

5
6 And let me point out, however, that
7 there's been a petition to the Secretaries to change that
8 threshold from 7,000 to 11,000. The Federal Subsistence
9 Board has sent a letter to the Secretaries requesting
10 that the Secretaries consider changing that a number of
11 years ago and the Secretaries have taken no action on
12 that request because they're waiting the outcome of the
13 general review of the Federal Subsistence Program that
14 the Secretaries asked the Federal Board to conduct. So
15 after that review is conducted they may consider changing
16 that upper threshold.

17
18 So the questions the Board would like
19 people to address; the question is this; are these
20 population threshold guidelines useful for determining
21 rural status. And let me point out they're guidelines,
22 they're not hard and fast numbers; they're simply
23 guidelines. Are they useful and, if not, are there other
24 population figures that you think more accurately reflect
25 rural status or rural population size in Alaska.

26
27 So once the Board has aggregated
28 communities together to come up with population figures
29 then it looks at rural characteristics. And in
30 particular between 2,500 and 7,000, where there was no
31 presumption of rural status, the Board looks at rural
32 characteristics and these are the characteristics that
33 its using at this point.

34
35 Use of fish and wildlife, the economic
36 development and diversity of an area, it's
37 infrastructure, it's transportation networks and it's
38 educational institutions. So these are characteristics
39 to look at to determine whether a community or grouping
40 of communities is rural.

41
42 And the question the Board would like you
43 to address is; are these characteristics useful. Do they
44 reflect what it means to be rural in Alaska. And, if
45 not, are there other characteristics that are more
46 reflective of what it means to be rural in Alaska.

47
48 And then, finally, the Board reviews
49 rural status every 10 years based on the US census. So
50 with that census, the Board then goes through and

1 reanalyzes rural communities and it also reviews out of
2 cycle and special circumstances. So, for example, if a
3 population suddenly change, if the Coast Guard moves out
4 and 5,000 people move away and you change from a non-
5 rural to a rural status, the Board would address that out
6 of cycle, not every 10 years but as it happens. And the
7 Board uses the US census to get its data and augmented by
8 State of Alaska Labor statistics.

9
10 So the question the Board would like; to
11 review on a 10 year cycle or not, and what sort of
12 information should the Board use in addition to US census
13 information and Alaska Department of Labor information.

14
15 Part of the problem is that some of the
16 information that the Board used to determine rural came
17 from the US census long form and the US census does not
18 use this long form anymore, commuting information for
19 example was reported on the long form. So some of the
20 information the Board used is not even accessible through
21 the census data and that kind of information is collected
22 now in what's called the American Community Survey and it
23 collects information on a five and a three and a one year
24 rolling cycle, not on a 10 year snapshot of communities
25 and areas.

26
27 So should the review on a 10 year cycle
28 and what other information sources can you suggest would
29 be useful for the Board to look at in ascertaining rural
30 status.

31
32 And finally, do you have additional
33 comments that the Board hear or be apprised of to make
34 the process effective.

35
36 So there are a number of resources
37 available to you that you can use, our website. It's
38 easiest to type in Office of Subsistence Management and
39 it'll bring you to the website. You can email us, call
40 us by phone, email us at subsistence@fws.gov, our phone
41 is 800-478-1456 for those of you on line, and you can
42 provide comments tonight by oral testimony, you're being
43 recorded tonight and that'll be part of the public
44 record. You can email subsistence@fws.gov., hand
45 deliver, mail if you prefer, and these are available also
46 on our website, these figures.

47
48 Thank you very much, and if you have
49 questions, as I say, direct them to Charlie.

50

1 (Laughter)
2
3 MR. BROWER: No, to Patty.
4
5 DR. JENKINS: Oh, to Pat, pardon me.
6
7 (Laughter)
8
9 MR. BROWER: Yes, to Pat.
10
11 DR. JENKINS: So I'll leave the questions
12 up and we invite your comment. Thank you, very much.
13
14 MR. REAKOFF: I had one question, the
15 transmittal request for increase from 7,000 to 11,000,
16 who requested that?
17
18 DR. JENKINS: Well, it came from the
19 Southeast, it came from Saxman and it went through the
20 Federal Subsistence Board and so the Board requested that
21 the Secretaries -- recommended to the Secretaries to
22 change the threshold and that is in Secretarial limbo
23 pending this review.
24
25 MS. PETRIVELLI: Okay. I guess we're in
26 the hearing part of this process. And so I would ask
27 that -- I notice that people are signing in and I
28 appreciate that you are. If you do want to testify at
29 this hearing you need to fill out a green card and then
30 I've made a list and so far I only have three people so
31 I don't see the need -- and I know there are people on
32 the teleconference that I will periodically check in,
33 every other -- as soon as this portion -- we'll deal with
34 the people in the room first and then go to the
35 teleconference people. So I don't think at this point we
36 need to put a time limit on it but we do hope that you'll
37 be respectful in case people change their minds.
38
39 So when I call your name please step
40 forward to the microphone and then begin your
41 presentation by stating your full name to assist the
42 recorder, and then maybe spell your name also, and then
43 if you're affiliated with an organization, please say so.
44 So that your comments are accurately captured please
45 speak clearly and into the microphone. If you're called
46 to speak and choose not to speak or provide short remarks
47 -- you can not do so -- let's see so the first person I
48 have on the list is Darrell Vent, Sr.
49
50 DR. JENKINS: I forgot to make one point

1 and I wanted to emphasize for everybody.

2

3 I wanted to remind everybody that we're
4 talking about the process of making rural determinations,
5 we're not talking about particular communities and
6 whether or not they're rural or non-rural. That'll come
7 at a later point, a couple of years later when we've
8 worked through this process. So we're really interested
9 in fixing the process, improving the process and not so
10 much talking about particular communities and their rural
11 or non-rural status.

12

13 Thank you.

14

15 MS. PETRIVELLI: And for the sake of the
16 people on the teleconference, the process questions that
17 we've left up on the PowerPoint:

18

19 The process questions are:

20

21 Grouping of communities.

22

23 Population thresholds.

24

25 Rural characteristics.

26

27 Timeline.

28

29 Information sources.

30

31 Those are the pieces of the process that
32 are under review.

33

34 So Darrell Vent, Sr.

35

36 MR. VENT: I am.....

37

38 MS. PATTON: Can I interject really
39 quickly, it's very difficult to hear David. He was
40 coming through very clearly and then it was kind of away,
41 and I'd just ask that the other speakers please speak
42 close to the microphone and loudly and clearly as
43 possible, thank you.

44

45 MR. VENT: Could you hear me now?

46

47 MS. PATTON: That sounds great, thank
48 you.

49

50 (Laughter)

1 MR. VENT: The thing I'm kind of
2 concerned about is, you know, when we consider rural.
3 Where I'm from is Huslia and with, you know, we have
4 about 300 people and probably about 80 percent
5 unemployment, you know, people who live off of what we
6 can provide from the land. So this thing with rural, you
7 know, that should be considered in there about the eight
8 -- I guess it says right there, you can develop them,
9 but, you know, the way our people are we're worried
10 about, you know, if we're going to be losing, you know,
11 our subsistence resources. So we're worried about king
12 salmon, we're worried about moose, these are all the
13 things that come into our area. We're worried about
14 caribou, you know, they have to travel a long ways to get
15 to us and now these are things that, you know, is coming
16 to issues here. That's not in this questionnaire. You
17 know, how hard it is to get food someplaces and, you
18 know, rural determination is, you know, like if you --
19 for instance if you go down to another village they don't
20 have the same opportunity we have, they have more, around
21 the coastal it's probably a little different. I don't
22 know how much they depend on subsistence but I can't
23 speak for them.

24
25 I can speak for my area.

26
27 The unemployment, you know, is kind of a
28 critical thing to us because we don't have jobs in the
29 village that can provide for our people. So if you're
30 doing a population thing you should be considerate of,
31 you know, some of the people in those bigger population
32 areas that don't have an economic base.

33
34 So that would be my recommendation.

35
36 Thank you.

37
38 MS. PETRIVELLI: Thank you. The next
39 person who is signed up is Stanley Ned.

40
41 MR. NED: I just had a question and he
42 answered my question.

43
44 MS. PETRIVELLI: Okay, thank you.

45
46 Jack Reakoff.

47
48 MR. REAKOFF: So my name is Jack Reakoff.
49 I live in Wiseman, Alaska.

50

1 And I feel that the -- going through the
2 questions, that the population thresholds would be
3 adequate, but if there's an aggregation process that
4 pushes dissimilar communities together to achieve these
5 threshold numbers then I don't feel that that's
6 appropriate. I feel that communities should be evaluated
7 -- like Wiseman is a resident zone community for Gates of
8 the Arctic National Park. Parks have resident zones, and
9 resident zones have, in the ANILCA language, significant
10 concentrations of subsistence users. That's the criteria
11 that the Park Service uses for resident zone communities.
12 So I feel that if a community has a significant
13 concentration of subsistence users it should stand alone
14 on that. And aggregating dissimilar communities that may
15 be near by that have no reliance on subsistence resources
16 they should not be aggregated with those.

17
18 So that's kind of what happened with
19 Saxman.

20
21 And so I've always felt that aggregating
22 communities that have rural subsistence use
23 characteristics and have had that for a long standing
24 period of time should not be aggregated because they may
25 have had roads built to them or some methodology that
26 would aggregate them with other populations.

27
28 I feel that the aggregation issue is
29 probably one of my most disliked parts of how rural
30 determinations are currently being used.

31
32 I feel that the use of fish and wildlife
33 for personal and family consumption, not commercial use,
34 but personal and family consumption and sharing, et
35 cetera, for customary and traditional use should be
36 evaluated, and it should be a significant part of your
37 diet. You know there's lots of people who've never shot
38 an animal in their life, maybe never caught a fish but
39 they utilize resources. And so you could get large
40 communities that could say I use subsistence resources,
41 I have like one moose roast a year that somebody gave me
42 or something, and subsistence use is utilizing the
43 majority of your foods, diet, your protein diet should be
44 coming from subsistence uses. And so that's -- I feel
45 that there should be some kind of threshold for the use
46 level.

47
48 And so those would be the two things that
49 I would feel that should be incorporated into the rural
50 determination process.

1 Thank you.

2

3 MS. PETRIVELLI: Thank you.

4

5 Richard Bishop.

6

7 MR. BISHOP: Thanks very much. My name
8 is Richard Bishop. I live in Fairbanks, adjacent to
9 Fairbanks in the outlying area.

10

11 And I think that the Subsistence Board
12 has a very difficult time amending or passing regulations
13 to fulfill the legal requirements of ANILCA. One of the
14 reasons is that it's a bad law to start with. It's a
15 discriminatory law. It discriminates against the
16 majority of Alaskans.

17

18 The designation of communities at the
19 outset and I was involved in seeing and participating in
20 that process when I worked for the Department of Fish and
21 Game was a biased process. The communities that were
22 first listed by the Federal government as rural
23 communities were only those that had a significant Native
24 organization in that community. So the list wound up
25 with weird things like Nenana, for example, where Nenana
26 is rural, and about three miles each side of Nenana is
27 rural but when you get out of town it's not rural. And
28 people who live beyond the extent of the designation,
29 more than three or four miles, whatever it is, north or
30 south of Nenana are not rural. Nenana is a modern town.
31 It has a lot of people in it that certainly do rely on
32 fish and game for their livelihood but it's not really
33 that different in terms of its economics, than, for
34 example, Fairbanks is, it's just smaller. So that makes
35 it a pretty tough thing to try to figure out. Does
36 Nenana have rural characteristics; well, I guess so. Do
37 they have economic development and diversity; they
38 certainly do. Infrastructure; well, the Alaska Railroad
39 and the Parks Highway run right through them. They have
40 a boarding school. They have a public school. A lot of
41 people that live in Nenana work in Fairbanks and vice
42 versa. So it's really a mixed bag.

43

44 Other examples of bizarre designations
45 are Kodiak, which, I think is around 8,000 people now but
46 as far as I know is still considered rural.

47

48 Sitka is pushing the population level, it
49 may even exceed. I think maybe it does exceed the 7,000
50 figure at this point, and it is considered rural. And,

1 yet, subsistence uses are not a principle -- not the
2 principle element of the economy in that community.

3
4 And that brings me to the point that I
5 would like to make is, and I appreciate Mr. Reakoff's
6 comment, I think there needs to be standards of use to
7 identify and set criteria for rural status.

8
9 I think that one criterion, and it has
10 been considered in the past by the State, as a matter of
11 fact, about 15 years ago, I guess, now, is whether
12 subsistence use is the principle element of the economy
13 of a community. If that criteria were established and
14 suitable means were devised to gather the data and
15 evaluate it, I think that would really clear up the
16 matter considerably, and there would be places where that
17 may be now considered rural might not be. So the
18 question is should they be or should they not. The
19 essence of the rural priority, and, again, I've had
20 experience in review of the law both in Congress and the
21 issues that were raised from time to time in the State
22 Legislature, the essence of establishing a rural priority
23 was to insure that people who needed the renewable
24 resources had adequate opportunity to obtain them.

25
26 The criterion of rural was a compromise,
27 it was a poor compromise when it was incorporated in
28 State law, it was reviewed by the Alaska Supreme Court
29 and the Alaska Supreme Court said that it was
30 unconstitutional because it was not consistent with the
31 common use and equal opportunities provisions of the
32 Alaska Constitution. One Judge went so far as to say in
33 his remarks, his separate opinion on it, that, this is an
34 equal -- this is almost a quote; this is an equal rights
35 issue and an easy one at that, and his opinion was that
36 the rural priority, which had been incorporated into
37 State law was discriminatory and violated the equal
38 rights of Alaskans. Well, if it did it there it does it
39 in Federal law as well. So I think some other criterion
40 is needed.

41
42 Now, it's pretty darn hard to change the
43 Federal law for a lot of different reasons, both good and
44 bad, but it may be possible to change the regulations.
45 So if the regulations were changed to be realistic in
46 terms of providing the opportunity for the use of fish
47 and game and other natural resources that are needed by
48 people; that would be a way to approach it. And if the
49 criterion of establishing the subsistence priority being
50 dependent on subsistence use being the major factor in

1 the economy of a community that would make it very clear
2 which communities were really dependent on those
3 resources and which were not.

4

5 And so that's what I'd recommend to the
6 Federal Subsistence Board and I would recommend it to
7 those on the Regional Councils that have to consider how
8 to approach this.

9

10 I think that it's an embarrassment to
11 have a criterion that is so inconsistent with places like
12 Kodiak, Sitka, Nenana, even -- I don't know which case
13 Saxman is in currently, but that are basically modern
14 urban cash oriented communities being classified as
15 rural. You could throw Barrow in there probably and Nome
16 as well. I think that that's really illogical. I think
17 it's a disservice to subsistence users as well as to the
18 rest of Alaskans.

19

20 Those are my comments.

21

22 Thank you.

23

24 MS. PETRIVELLI: Thank you. We have one
25 more person signed up and then we'll turn to the
26 teleconference and I'll ask them, but the last person
27 signed up in the room is Jenny Bell-Jones.

28

29 MS. BELL-JONES: Thank you. I'll get
30 myself a little closer to this. How's that.

31

32 REPORTER: You're fine, yes.

33

34 MS. BELL-JONES: Thank you. I'm not very
35 good with the technology.

36

37 REPORTER: You're fine right where you're
38 at.

39

40 MS. BELL-JONES: Okay. My name is Jenny
41 Bell-Jones. I live in Fairbanks and I would like to read
42 a prepared statement, if that is okay. I'm interested to
43 know if there is a time limit.

44

45 MS. PETRIVELLI: We can hear it.

46

47 MS. BELL-JONES: You'll tell me if I go
48 too far.

49

50 MS. PETRIVELLI: (Nods affirmatively)

1 MS. BELL-JONES: I'm looking at these
2 process questions and I reviewed the information that was
3 sent out prior to the meeting and it was questioning
4 whether we felt these process questions were in
5 compliance with the spirit of ANILCA.
6

7 I'd like to start out by reading you two
8 sections from the Declarations of Findings in ANILCA.
9

10 No. 1. The continuation -- and this is
11 in Title VIII. The continuation of the opportunity for
12 subsistence uses by rural residents of Alaska, including
13 both Natives and non-Natives on the public lands and by
14 Alaska Natives on Native lands is essential to Native
15 physical, economic, tradition and cultural existence, and
16 to non-Native physical, economic, traditional and social
17 existence.
18

19 No. 4. In order to fulfill the policies
20 and purposes of the Alaska Native Claims Settlement Act
21 and as a matter of equity it is necessary for the
22 Congress to invoke its constitutional authority over
23 Native affairs and it's constitutional authority under
24 the property clause and the commerce clause to protect
25 and provide the opportunity for continued subsistence
26 uses on the public lands by Native and non-Native rural
27 residents.
28

29 I would like to suggest that the current
30 method of determining rural community status is flawed
31 because it does not meet the spirit of Title VIII of
32 ANILCA. The true and original intent of this Act was to
33 protect Alaska Native communities that had lost the
34 protections that they needed for aboriginal hunting and
35 fishing rights due to 4(b) in the Alaska Native Claims
36 Settlement Act.
37

38 The intent was to protect Alaska Native
39 communities regardless of where those communities are
40 located. Paragraphs 1 and 4 that I just read to you
41 speak to this clearly. There is a significant difference
42 between Native cultural existence and non-Native social
43 existence. Paragraph 4 references ANCSA and specifies
44 both Native and non-Native rural residents as specific
45 from each other. If the subsistence needs of Native
46 communities are to be protected. The spirit of the law
47 will not be met if, whenever a neighboring non-Native
48 majority community experiences growth and development,
49 the Native community then loses their rural status, as in
50 the case of Saxman. If a non-Native rural community

1 grows as a result of other non-Natives migrating in, it
2 is reasonable that it should lose its subsistence status
3 since immigrants have no history of subsistence use and
4 the social composition of the community is changing. It
5 is not, however, reasonable to punish Native residents of
6 that community or of neighboring communities by taking
7 away their ability to meet their culturally-based needs.
8 Native cultural needs do not change simply because a
9 family moves. Cultural morals are developed over many
10 generations and hundreds of years. For Native people
11 subsistence is not just about food and many urban Natives
12 are very active in their traditions.

13

14 We know where the Native communities are,
15 both rural and urban, and the best way, I feel, to
16 address this determination process is to clearly identify
17 them. Recognize that their members all need to continue
18 subsistence practices to preserve their culture and pass
19 it on to future generations. And then preserve those
20 communities and their residents, including any clearly
21 affiliated non-Native residents, such as spouses, from
22 any possibility of losing their subsistence rights.

23

24 I feel that if we do not do this,
25 eventually the Native communities that ANILCA was
26 designed to protect will completely lose that protection.

27

28 We build roads, we develop, we bring in
29 people from the outside, a neighboring community grows;
30 your community loses its status. That is not what I
31 believe ANILCA was intended to do.

32

33 Thank you for your time.

34

35 MS. PETRIVELLI: Thank you.

36

37 And then I was going to see if there's
38 anyone on the teleconference that wishes to speak.

39

40 (No comments)

41

42 MS. PETRIVELLI: Well, if there's no one
43 on the teleconference line that would like to speak, is
44 there anyone else in the room that would like to make
45 comments, because everyone who filled out a card has
46 testified.

47

48 (No comments)

49

50 MS. PETRIVELLI: Okay. So I guess if

1 there's no further comments, we're closing the public
2 hearing now. And I'll remind everyone that you can
3 submit written comments after this meeting until December
4 2nd. The address and instructions for submitting
5 comments are in the handouts on the table or on the
6 website.

7

8 I thank you very much for participating
9 in this process tonight.

10

11 (Telephone interference)

12

13 MS. PETRIVELLI: Does that mean someone
14 wants to testify or maybe they're hanging up.

15

16 (No comments)

17

18 MS. PETRIVELLI: And I guess before we
19 close off, who is on the line still.

20

21 MS. PATTON: We did hear Victor Lord from
22 Nenana on the line at the beginning, are you still on
23 Victor.

24

25

26 (No comments)

27

28 MS. PETRIVELLI: Okay. Yes, if you'd
29 like to testify -- yeah.

30

31 MR. ANDERSON-AGIMUK: Hi. I didn't fill
32 anything out but.....

33

34 MS. PETRIVELLI: Just state your name
35 please and spell it, if you didn't fill out the green
36 card.

37

38 MR. ANDERSON-AGIMUK: Okay. Benjamin
39 Anderson-Agimuk. And that's B-E-N-J-A-M-I-N, A-N-D-E-R-
40 S-O-N-A-G-I-M-U-K.

41

42

43 REPORTER: Thank you.

44

45 MR. ANDERSON-AGIMUK: I guess the short,
46 I guess, short history of Alaska starting back from the
47 territory transitioning into statehood, there was a law
48 that -- that you could only vote if you could read and
49 speak English and I guess that shows to the cultural the
50 State -- or the territory at the time, a lot of, you

1 know, views, a lot of -- a lot of things were in the
2 institution were anti-Native and that kind of set the
3 standard there out and the process -- the way the State
4 dealt with things, I -- I guess what I'm trying to say is
5 if it had been a little bit different then ANILCA would
6 not be needed because -- because then if Alaska Natives
7 were a part of the State Constitution then -- then ANILCA
8 would not be needed and we wouldn't -- we wouldn't need
9 -- I'm sorry, I have no direction with this right now.

10

11 MS. PETRIVELLI: Okay. Well, we could
12 take written comments and if you want to finish those
13 thoughts then you can submit them in writing to the
14 Federal Subsistence Board and the deadline's December
15 2nd. But we could talk about it more after the hearing's
16 closed.

17

18 MR. ANDERSON-AGIMUK: Okay, that's fine,
19 yeah. Sorry about -- about this. I kind of just.....

20

21 MS. PETRIVELLI: But if you have any
22 comments on the process but -- after the meeting I could
23 maybe answer your personal questions -- your questions
24 personally and we can see how to get there.

25

26 Thank you.

27

28 MR. ANDERSON-AGIMUK: Okay.

29

30 MS. PETRIVELLI: So like I said you can
31 submit it in writing. The Federal Board is looking
32 forward to the comments on this issue from the tribes,
33 ANCSA corporations and general public. After all
34 comments are received and evaluated, then the process
35 moves into Phase II where the Board may craft
36 recommendations on the rural determination criteria to
37 forward to the Secretaries of the Interior and
38 Agriculture.

39

40 Thank you all for coming tonight.

41

42 And then if Mr. Brower has no more
43 comments.....

44

45 MR. BROWER: (Shakes head negatively)

46

47 MS. PETRIVELLI:and so I guess
48 we're concluded with this hearing and thank you again.

49

50 Bye-bye.

1 (Off record)
2
3 (END OF PROCEEDINGS)

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C E R T I F I C A T E

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)ss.
STATE OF ALASKA)

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